

RESPONSE UNDER 37 C.F.R. § 1.116
EXPEDITED PROCEDURE
TC/A.U. 1773

REMARKS/ARGUMENTS

Claims 1 - 27 are presented for Examiner's consideration. Reconsideration of the present application in view of the following remarks and enclosed provisional terminal disclaimer is respectfully requested.

Claims 1 - 27 stand provisionally rejected over co-pending application serial number 10/026,197 entitled "Latently Dispersible Barrier Composite Material" under the doctrine of obviousness-type double patenting. During a telephone interview held with the Examiner on December 2, 2003, the Examiner indicated that claims 14 - 21 are the only claims provisionally rejected for double patenting and that the listing of claims 1 - 27 was a typographical error. The Applicants have submitted a provisional terminal disclaimer to overcome the pending rejection of claims 14 - 21 should the co-pending application issue as a patent.

Claims 1 - 10, and 21 - 27 stand rejected under 35 U.S.C. § 103(a) as obvious over WO 99/45834 (WO '834).¹ The Applicants respectfully traverse the Examiner's rejection of the above claims because a *prima facie* case of obviousness has not been established since the proposed combination fails to teach or suggest all of the claim limitations. Specifically, the cited reference does not teach, suggest or enable liquid impervious commode liners that are flushable, dispersible, or flushable and dispersible as claimed. Furthermore, the cited reference teaches away from the Applicants' invention. At page 2, WO '834 states:

The container intended for collector **other than toilets** can also be manufactured with impermeable material, able to collect urine and human feces without crumbling, **in order to allow their shift to an appropriate dustbin** without losing any drop or part of material. An useful variation can be that of allocating a layer of absorbent material is allocated into the container, in correspondence with the lower surface of the collector, so that the liquids are restrained by such layer, making easier handling of the container once used. **The purpose of this version of the container is to secure an elimination of urine and excrements in a manner other than throwing the container into the toilet**, improving further cleanliness of the collectors. (Emphasis supplied)

Thus, from the above teaching it is clear that the liquid impermeable containers of WO '834 are neither flushable nor dispersible as claimed in claims 3 - 7, 25, and 26 since the patent specifically teaches to throw them in a garbage container (dustbin). Furthermore, a suitable material from which to form a liquid impermeable flushable or dispersible commode liner is not taught or suggested by WO '834. As such, these claims are not obvious with regard to the cited reference.

¹ Applicants assume that rejecting claim 21 was an error since it was amended in the last office action to depend from claim 20, which depends from claim 14 that has not been rejected as obvious.

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The Applicants respectfully traverse the Examiner's stated position in the last Office Action relative to the claimed hydrohead values. As stated in the specification at page 11, lines 18 - 26, balancing the impermeability, dispersibility, flexibility, and strength of the commode liner for disposal in a toilet after removing it from a commode is no easy task. For example, a plastic commode liner can be impermeable, but such a liner is neither flushable nor dispersible. On the other hand, a flushable commode liner made from paper, such as those of WO '834, is not liquid impermeable and may not be dispersible when flushed, clogging the sewer pipes. The recited hydrohead value, as discussed on page 11, measures the dispersible liner's resistance to liquids over *an extended period of time*. The flushable and dispersible commode liner must have the necessary impermeability, over an extended period of time as measured by the hydrohead value, to be transported to the toilet for disposal by flushing and then dispersing. This transport may occur much later after soiling since the caregiver may need to attend to the needs of the patient first before disposing of the commode liner in the toilet. After placement in the toilet and the passage of time, the commode liner is no longer liquid impermeable and disperses. As such, claims 1, 2, 5, 8 - 10, 22 - 24, and the recited hydrohead value are not obvious with regard to the cited reference.

Claims 1, 2, 5, 7 - 10, and 21 - 24 stand rejected under 35 U.S.C. § 103(a) as obvious over German Publication 20016916U1 in view of Canadian Patent 819,353.² The Office Action asserts it would have been obvious to use the joining method for the polythene liner disclosed in CA '353 with the paper toilet liner disclosed in DE '916. A *prima facie* case of obviousness has not been established since the proposed combination fails to teach or suggest all of the claim limitations. There is no teaching or suggestion of the claimed hydrohead value, capacity, or maximum CD wet tensile load when the references are combined as suggested by the Examiner. The paper commode liner as disclosed in DE '916, even if two sheets are joined together as disclosed in CA '819, will leak and not possess the claimed hydrohead value over an extended period of time enabling transport to a toilet for flushing and dispersing. As such, claims 1, 2, 5, 7 - 10, 21 - 24, and the recited hydrohead value are not obvious with regard to the proposed combination.

The Applicants note that the only rejection pending against claims 11 - 20 is the double patenting rejection. As such, these claims are now in a condition for allowance. Furthermore, claim 21 was amended in the previous office action to depend from claim 20. As such, claim 21 is in a condition for allowance.

² Applicants assume that rejecting claim 21 was an error since it was amended in the last office action to depend from claim 20, which depends from claim 14 that has not been rejected as obvious.

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For the reasons stated above, it is respectfully submitted that all of the presently presented claims are in form for allowance. Please charge any prosecutorial fees which are due to Kimberly-Clark Worldwide, Inc. deposit account number 11-0875. The undersigned may be reached at: (920) 721-7760.

Respectfully submitted,
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CERTIFICATE OF FACSIMILE

I, Lanette Burton, hereby certify that on December 3, 2003, the aforementioned documents are being transmitted via facsimile to the United States Patent & Trademark Office, Commissioner for Patents, Alexandria, VA, to RightFax number (703) 872-9311.

By: Lanette Burton
Lanette Burton